

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

Akeem Henderson, et al.

Plaintiffs;

v.

Willis-Knighton Medical Center

Defendant.

Case No. 5:19-CV-00163

Judge Elizabeth E. Foote

Magistrate Judge Mark L. Hornsby

Jury Trial Demanded

**DEFENDANT'S DAUBERT MOTION TO LIMIT THE SCOPE OF DR. RICHARD
SOBEL'S TESTIMONY**

NOW INTO COURT, through undersigned counsel, comes Defendant Willis-Knighton Medical Center, who moves this Court to limit the scope of the testimony of Plaintiffs' expert witness Dr. Richard Sobel at trial. This motion is timely made in accordance with this Court's Amended Scheduling Order (Doc. 19). Trial is scheduled to begin on July 20, 2020.

Dr. Sobel is an emergency medicine physician and has been referred to as an "expert" in the Emergency Medical Treatment and Labor Act (EMTALA) by counsel for Plaintiffs. While Defendant has no objection to Dr. Richard Sobel testifying as an expert in emergency medicine, Defendant objects to Dr. Sobel being tendered as an expert in EMTALA at trial. Dr. Sobel is a physician, and is not qualified to testify as to legal definitions and ultimate conclusions of law under EMTALA. Moreover, instructions regarding the provisions of EMTALA are the province of the Court rather than any witness at trial.

Defendant further moves this Court to exclude any testimony, evidence, discussion, or reference by Dr. Sobel, or any other expert who Plaintiffs may retain before trial, as to the standard

of care applicable to the emergency room physicians or nurses involved in A.H.'s care. Plaintiffs only allege claims against Willis-Knighton Medical Center under EMTALA, and do not allege medical malpractice in their Complaint. Because Plaintiffs have not pled medical malpractice, whether the standard of care was met in this case is not relevant to Plaintiffs' EMTALA claims. Therefore, Defendant seeks an order excluding any and all testimony from Dr. Sobel regarding the standard of care, and whether such standard of care was breached by A.H.'s healthcare providers at Willis-Knighton Medical Center on February 10, 2018.

WHEREFORE, Defendant Willis-Knighton Medical Center prays its motion be granted, and that this Court order Plaintiffs be precluded from referring to Dr. Sobel as an "EMTALA expert," or otherwise introducing any testimony or evidence from Dr. Sobel, or any other medical expert, as to legal conclusions under EMTALA. Defendant further prays the Court limit Dr. Sobel from testifying as to the standard of care in this case, as Plaintiffs have not alleged claims of medical negligence and such testimony is irrelevant and presents a risk of misleading or confusing the jury.

Respectfully Submitted,

/s/ Lamar P. Pugh

Lamar P. Pugh

Louisiana Bar Roll Number. 20070

Robert G. Pugh, III

Louisiana Bar Roll Number 36631

PUGH, PUGH & PUGH L.L.P.

333 Texas Street, Suite 2100

Shreveport, Louisiana 71101

Telephone: 318-227-2270

Telecopier: 318-227-2273

lamar@thepughlawfirm.com

[continued on next page]

/s/ Robert W. Robison, Jr.

Robert W. Robison, Jr.

Louisiana Bar Roll Number 24630

Shelby L. Giddings

Louisiana Bar Roll Number 38232

WATSON, BLANCHE, WILSON & POSNER, LLP

505 North Boulevard

Baton Rouge, Louisiana 70821

Telephone: 225-387-5511

Telecopier: 225-387-5972

rrobison@wbwplaw.com

Attorneys for Defendant

Willis-Knighton Medical Center

d/b/a Willis-Knighton South

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing has been provided to opposing counsel electronically via the CM/ECF/ PACER system, on this 2nd day of March, 2020.

/s/ Shelby L. Giddings

SHELBY L. GIDDINGS